

APR 26 2005

JENKINS, WILSON & TAYLOR, P.A.**PATENT ATTORNEYS**

SUITE 1400 UNIVERSITY TOWER
3100 TOWER BOULEVARD
DURHAM, NORTH CAROLINA 27707
TELEPHONE: (919) 493-8000
FACSIMILE: (919) 419-0383

WEBSITE: WWW.JENKINSWILSONTAYLOR.COM

DATE: April 26, 2005

TO: Art Group Unit 1600 (for Group 1631)

FAX NO.: (703) 872-9306

FROM: Arles A. Taylor, Jr. (cab)

RE: Serial No. 08/808,827; Atty. Docket No. 1406/194

NUMBER OF PAGES TO FOLLOW: 5

If transmission is poor, or if you do not receive all pages, please
call (919) 493-8000 as soon as possible.

COMMENTS:

**Attachment: Transmittal Letter (1 page); and
NOTICE OF APPEAL (2 pages) in duplicate.**

**PLEASE DELIVER TO EXAMINER JOHN S. BRUSCA AS
SOON AS POSSIBLE.**

The information contained in this facsimile message is **ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION** intended only for the use of the individual or entity named as recipient. If the reader is not the intended recipient, be hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by phone and return the original message to us at the address shown above via the U.S. Postal Service. Thank you.

**JENKINS
WILSON
& TAYLOR**

patent attorneys

April 26, 2005

RICHARD E. JENKINS

JEFFREY L. WILSON

ARLES A. TAYLOR, JR.

GREGORY A. HUNT

E. ERIC MILLS

BENTLEY J. OLIVE

MICHAEL J. CROWLEY

CHRIS PERKINS, PH.D.

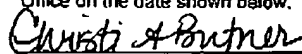
JAMES DALY IV, PH.D.

JEFFREY CHILDERS, PH.D.

THEODOSIOS THOMAS

OF COUNSEL
SOROJINI BISWAS*****
"LICENSED ONLY IN CA"

"LICENSED ONLY IN NY"

I hereby certify that this paper is being facsimile
transmitted to the United States Patent and Trademark
Office on the date shown below.

Christi A. Bulner

Date of Signature April 26, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450Re: U.S. Patent Application Serial No. 08/808,827 for
NON SELF-INACTIVATING, EXPRESSION TARGETED
RETROVIRAL VECTORS
Our Ref. No. 1406/194

Sir:

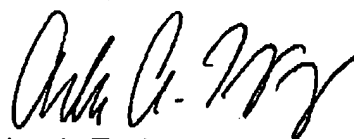
Please find enclosed the following:

1. Notice of Appeal from the Primary Examiner to the Board of
Patent Appeals and Interferences (2 pages) (in duplicate); and
2. Statement Pursuant to 37 C.F.R. § 1.116(e) (2 pages).

Please contact our offices if there are any questions with respect to this
matter.The Commissioner is hereby authorized to charge any fees associated
with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON & TAYLOR, P.A.



Arles A. Taylor, Jr.

Registration No.: 39,395

AAT/cab
Enclosures
Customer No: 25297

tel 919.493.8000

fax 919.419.0383

Jenkins, Wilson & Taylor, P.A.

JenkinsWilsonTaylor.com

University Tower, Suite 1400 | 3100 Tower Boulevard | Durham, North Carolina 27707

Practitioner's Docket No. 1406/194 (formerly GSF97-01A)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gunzburg, et al.

Application No.: 08/808,827

Group No.: 1631

Filed: February 28, 1997

Examiner: Brusca, John S.

For: NON SELF-INACTIVATING, EXPRESSION TARGETED RETROVIRAL VECTORS

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
(37 C.F.R. § 1.191)

Applicant hereby appeals to the Board from the decision of the Primary Examiner, mailed October 26, 2004, finally rejecting claims 1,5,7,9-26,28,29 and 31-78.

1. STATUS OF APPLICANT

This application is on behalf of a small entity

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is *mandatory*;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☐ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

☐ with sufficient postage as first class mail.

37 C.F.R. § 1.10*

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. _____ (mandatory)

TRANSMISSION

☒ facsimile transmitted to the Patent and Trademark Office, (703) 872-9306.

Date:

April 26, 05

Signature

Christi A. Burner

Christi A. Burner

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Notice of Appeal from the Primary Examiner to Board—page 1 of 2

2. FEE FOR FILING NOTICE OF APPEAL

Pursuant to 37 C.F.R. § 1.17(b), the fee for filing the Appeal Brief is:

Small entity \$250.00

Notice of Appeal fee due \$250.00

3. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.

An extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for three months was requested on April 18, 2005.

If an additional extension of time is required, please consider this a petition therefor.

4. TOTAL FEE DUE

The total fee due is:

Notice of Appeal fee \$250.00

TOTAL FEE DUE \$250.00

5. FEE PAYMENT

Authorization is hereby made to charge the amount of \$250.00 to Deposit Account No. 50-0426.

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

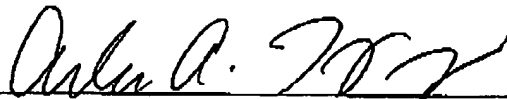
A duplicate of this transmittal is attached.

6. FEE DEFICIENCY

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-0426.

Date:

04/26/2005



Arles A. Taylor, Jr.
Registration No. 39,395
Jenkins, Wilson & Taylor, P.A.
University Tower Suite 1400
3100 Twoer Boulevard
Durham, NC 27707
919-493-8000
Customer No. 25297

Notice of Appeal from the Primary Examiner to Board--page 2 of 2

COPY

Practitioner's Docket No. 1406/194 (formerly GSF97-01A)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gunzburg, et al.

Application No.: 08/808,827

Group No.: 1631

Filed: February 28, 1997

Examiner: Brusca, John S.

For: NON SELF-INACTIVATING, EXPRESSION TARGETED RETROVIRAL VECTORS

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
(37 C.F.R. § 1.191)

Applicant hereby appeals to the Board from the decision of the Primary Examiner, mailed October 26, 2004, finally rejecting claims 1,5,7,9-26,28,29 and 31-78.

1. STATUS OF APPLICANT

This application is on behalf of a small entity

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is *mandatory*;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☐ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

☐ with sufficient postage as first class mail.

37 C.F.R. § 1.10*

☐ as "Express Mail Post Office to Addressee"
Mailing Label No. _____ (mandatory)

TRANSMISSION

☒ facsimile transmitted to the Patent and Trademark Office, (703) 872-9306.

Date:

April 26, 05

Signature

Christi A. Butner

Christi A. Butner

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Notice of Appeal from the Primary Examiner to Board—page 1 of 2

2. FEE FOR FILING NOTICE OF APPEAL

Pursuant to 37 C.F.R. § 1.17(b), the fee for filing the Appeal Brief is:

Small entity \$250.00

Notice of Appeal fee due \$250.00

3. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R.1.136 apply.

An extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for three months was requested on April 18, 2005.

If an additional extension of time is required, please consider this a petition therefor.

4. TOTAL FEE DUE

The total fee due is:

Notice of Appeal fee \$250.00

TOTAL FEE DUE \$250.00

5. FEE PAYMENT

Authorization is hereby made to charge the amount of \$250.00 to Deposit Account No. 50-0426.

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this transmittal is attached.

6. FEE DEFICIENCY

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-0426.

Date:

04/26/2005



Arles A. Taylor, Jr.
Registration No. 39,395
Jenkins, Wilson & Taylor, P.A.
University Tower Suite 1400
3100 Twoer Boulevard
Durham, NC 27707
919-493-8000
Customer No. 25297

Notice of Appeal from the Primary Examiner to Board--page 2 of 2

I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office on the date shown below.

Christi Butner

Christi Butner

Date of Signature: April 26, 2005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Gunzburg and Saller

Group Art Unit: 1631

Serial No.: 08/808,827

Examiner: Brusca, John S.

Filed: February 28, 1997

Docket No.: 1406/194

Confirmation No.: 6837

For: NON SELF-INACTIVATING, EXPRESSION TARGETED RETROVIRAL VECTORS

STATEMENT PURSUANT TO 37 C.F.R. §1.116(e)

Commissioner of Patents
Washington, D.C. 20231

Sir:

Pursuant to requirements of 37 C.F.R. § 1.116(e), applicants' representative submits the following:

1. The instant U.S. Patent Application Serial No. 08/808,827 (hereinafter "the '827 Application") was initially filed on February 28, 1997.
2. A Revocation and New Power of Attorney was filed July 28, 2004 in favor of the firm of applicants' undersigned attorney, Jenkins, Wilson & Taylor, P.A.
3. A Request for Continued Examination (RCE) was filed on September 2, 2004 along with an amendment in response to a Final Official Action dated March 2, 2004. The response included several amendments to the pending claims along with arguments responsive to the rejections in the Final Official Action.
4. On October 26, 2004, a first action, Final Rejection was mailed by the United States Patent and Trademark Office (hereinafter "the Patent Office").
5. After the first action, Final Rejection was presented, a telephone interview between applicants' representatives Arles A. Taylor, Jr. and Christopher P. Perkins and Examiner John S. Brusca of the Patent Office was held on January 11, 2005. During the

Serial No. 08/808,827

course of the interview, no agreement was reached. But, an Expert Declaration mentioning the safety benefits of the instantly claimed retroviral vectors was discussed, as was taking the '827 Application to appeal.

6. On April 18, 2005, a Declaration of Christine Leib-Moesch pursuant to 37 C.F.R. §1.132 (hereinafter "the Declaration") was filed, responsive to the Final Rejection dated October 26, 2004. The declarant was located in Germany.

Accordingly, applicants respectfully submit that the Declaration was filed in a timely manner given the following:

- applicants' current representatives entered the prosecution of the '827 Application only recently, and at a time when a final response deadline was imminent;
- it was unanticipated upon consideration of the extent to which the pending claims were amended and the arguments presented within the response filed September 2, 2004 that a Final Rejection would be presented in the next Official Action received by applicants' representatives; and
- assignee is a German company, and the declarant was located in Germany.

DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,
JENKINS, WILSON & TAYLOR, P.A.

Date:

04/26/2005

By:



Arles A. Taylor, Jr.
Registration No. 39,395

1406/194

AAT/PPP/cab

Customer No:

25297